

THE HON'BLE MS. JUSTICE G. ROHINI

W.P.No. 24865 of 2005

This writ petition is filed seeking a declaration that the action of the Prohibition and Excise Superintendent, Tirupathi Town, Chittoor District, 1st respondent, in permitting the 2nd respondent to shift the licensed premises of M/s Manasa Wines from Door No.6-50, Eshwaragudi street, Puttur to Door No.8-201-C, Tirupathi Arakonam Road as arbitrary and illegal.

The petitioner-M/s Laxmi Wines claims to be a licensee under Rule-17 of the A.P. Excise (Lease of Right of Selling by Shop Conditions of Licence) Rules, 2005 (for short the "Rules") to sell and store Indian Liquor and Foreign Liquor at shop No.3, situated at Door No.8/201-A, Tirupathi-Arkonam Road, Puttur, Puttur Mandal, Chittoor District. The lease which commenced with effect from 1-7-2005 is valid upto 30-6-2006. It is not in dispute that the 2nd respondent herein is also a lessee and he was originally permitted to locate the licensed premises in Eshwaragudi Street. Subsequently, it appears that on a request made by the 2nd respondent, the 1st respondent passed order dated 11-11-2005 permitting the 2nd respondent to shift the licensed premises from Door No.6/50, Eshwaragudi street, Puttur to Door No.8/201-C, Tirupathi-Arkonam Road. The said order is under challenge in this writ petition.

The grievance of the petitioner is that the premises bearing Door No.8-201/C, in which the 2nd respondent has now located the shop in pursuance of the impugned order dated 11-11-2005 is situated just 10 feet away from the shop of the petitioner and the same has adversely affected his business. The petitioner states that at the time of auction the 1st respondent informed that no other shop would be permitted within 50 meters from the shop of the petitioner and on the basis of the said assurance the petitioner had quoted Rs. 7,86,000/- towards lease amount; whereas the 2nd respondent had quoted a meager amount of Rs.7 lakhs. Hence permitted the 2nd respondent to shift his shop to the main road just adjacent to the shop of

the petitioner is arbitrary and illegal.

I have heard the learned counsel for the petitioner as well as the learned counsel appearing for the 2nd respondent and the learned Government Pleader appearing for the 1st respondent.

It is to be noted that Rule 29 of the Rules reads as under:

“ 29. Sale permitted at the licensed premises only:- 1) The lease holder shall sell the liquor only at the premises specified in the licence.

2) No change or alteration of the licensed premises shall be made nor the licensed premises shifted elsewhere.

3) Shifting of the licensed premises may be permitted for valid reasons and subject to constitutions as may be specified by the Commissioner of Prohibition and Excise within the same area/locality, where it was originally established subject to payment of Rs.10,000/- as fee.”

As per sub-rule (3) of Rule 29, shifting of the licensed premises is permissible for valid reasons and subject to conditions as may be specified by the Commissioner of Prohibition and Excise within the same area/locality where it was originally established subject to payment of Rs. 10,000/- as fee.

In the case on hand it is not in dispute that the 2nd respondent was permitted to shift his shop to a premises, which is in the same locality.

The 1st respondent in his counter affidavit has explained that Puttur Gram Panchayat had been converted into Municipality during the month of June,2005 and consequent on re-organization of Prohibition and Excise Department by the Government in G.O.Ms.No.1563. Rev. (Ex-II) Department, dated 17-8-2005, Chittoor Revenue District is divided into two Excise Districts viz., Chittoor Excise District and Tirupati Excise District headed by the Prohibition and Excise Superintendents separately for each Excise District to exercise the powers and functions as licensing authority independently. The shop of the petitioner falls under the administrative control of the Prohibition and Excise Superintendent, Tirupati. It is also stated that on the basis of a representation made by the 2nd respondent requesting permission to shift his licensed premises to Door No.80-201/C, Tirupati-Arkonam Road, the impugned order has been passed granting permission to shift his shop within the same area/ward of the Puttur Municipality.

Thus it is clear that the impugned order passed by the 1st respondent is in accordance with Rule 29 of the Rules. No other provision under the Rules has been pointed out by the learned counsel for the petitioner, which provides any restriction with regard to the distance to be maintained between the shops of two lessees. Hence the contentions raised by the petitioner are without any substance and the impugned order cannot be held to be arbitrary or illegal warrant interference by this court.

The writ petition is accordingly dismissed. No costs.

20th December, 2005

BJ/